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10/17/2005 15:02 612-455-3801

HSMR, P.C.

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Attorney Docket No.

MERCHANT & GOULD P.C.

United States Patent Application

**COMBINED DECLARATION AND POWER OF ATTORNEY**

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

PHOTONIC CRYSTAL OPTICAL WAVEGUIDE

The specification of which

a.  is attached hereto  
b.  was filed on \_\_\_\_\_ as application serial no. \_\_\_\_\_ and was amended on \_\_\_\_\_ (if applicable) (in the case of a PCT-filed application) described and claimed in international no. PCT/JP2003/008639 filed on July 8, 2003 and as amended on \_\_\_\_\_ (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

a.  no such applications have been filed.  
b.  such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
Japan	2002-198337	8 July 2002	
ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby claim the benefit under Title 35, United States Code § 119(c) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)

I acknowledge the duty to disclose information that is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (reprinted below):

**§ 1.56 Duty to disclose information material to patentability.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;

or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

- (i) Opposing an argument of unpatentability relied on by the Office, or
- (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

(e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Ali, M. Jeffer	Reg. No. 46,359	Lanc, Deakin T.	Reg. No. 47,892
Altera, Allan G.	Reg. No. 40,274	Leach III, Thomas J.	Reg. No. P-53,188
Anderson, Gregg I.	Reg. No. 28,828	Leonard, Christopher J.	Reg. No. 41,940
Batzli, Brian H.	Reg. No. 32,960	Lewis, George C.	Reg. No. 53,214
Beard, John L.	Reg. No. 27,612	Liepa, Mara E.	Reg. No. 40,066
Burns, John M.	Reg. No. 43,496	McDonald, Daniel W.	Reg. No. 32,044
Blackburn, Murrell W.	Reg. No. 50,881	McIntyre, Jr., William F.	Reg. No. 44,921
Bortolotti, Rebecca	Reg. No. 51,488	Mueller, Douglas P.	Reg. No. 30,300
Branch, John W.	Reg. No. 41,633	Nelson, Anna M.	Reg. No. 48,935
Brown, Jeffrey C.	Reg. No. 41,643	Parsons, Nancy J.	Reg. No. 40,364
Bruess, Steven C.	Reg. No. 34,130	Pauly, Daniel M.	Reg. No. 40,123
Byrne, Linda M.	Reg. No. 32,404	Peterson, Kyle T.	Reg. No. 46,989
Campbell, Keith	Reg. No. 46,597	Phillips, John B.	Reg. No. 37,206
Clifford, John A.	Reg. No. 30,247	Pino, Mark J.	Reg. No. 43,858
Cook, Jeffrey	Reg. No. 48,649	Qualey, Terry	Reg. No. 25,148
Daignault, Ronald A.	Reg. No. 25,968	Randall, Joshua N.	Reg. No. 50,719
Daley, Dennis R.	Reg. No. 34,994	Reich, John C.	Reg. No. 37,703
Daley, William J.	Reg. No. 52,471	Reiland, Earl D.	Reg. No. 25,767
Daulton, Julie R.	Reg. No. 36,414	Roath, Paul D.	Reg. No. 45,045
DeVries Smith, Katherine M.	Reg. No. 42,157	Schmaltz, David G.	Reg. No. 39,828
DiPietro, Mark J.	Reg. No. 28,707	Schuman, Mark D.	Reg. No. 31,197
Doscotch, Matthew A.	Reg. No. 48,957	Schumann, Michael D.	Reg. No. 30,422
Edell, Robert T.	Reg. No. 20,187	Scull, Timothy B.	Reg. No. 42,137
Epp, Ryan, Sandra	Reg. No. 39,667	Sebald, Gregory A.	Reg. No. 33,280
Fitzsimmons, Karen A.	Reg. No. 50,470	Skoog, Mark T.	Reg. No. 40,178
Gadiano, Christina M.	Reg. No. 37,628	Sorge, Keith M.	Reg. No. 50,865
Gaffney, Matthew M.	Reg. No. 46,717	Stewart, Alan R.	Reg. No. 47,974
Goggin, Matthew J.	Reg. No. 44,125	Stoll-DeBell, Kirstin L.	Reg. No. 43,164
Golla, Charles E.	Reg. No. 26,896	Sullivan, Timothy	Reg. No. 47,981
Gorman, Alan G.	Reg. No. 38,472	Swenson, Erik G.	Reg. No. 45,147
Gottfredson, Karen J.	Reg. No. 44,722	Tellekson, David K.	Reg. No. 32,314
Gould, John D.	Reg. No. 18,223	Trembath, Jon R.	Reg. No. 38,344
Gregson, Richard	Reg. No. 41,804	Tunheim, Marcia A.	Reg. No. 42,189
Gresens, John J.	Reg. No. 33,112	Underhill, Albert L.	Reg. No. 27,403
Haack, John L.	Reg. No. 36,154	Vidovich, Kristin K.	Reg. No. 41,448
Hamre, Curtis B.	Reg. No. 29,165	Wahl, John R.	Reg. No. 33,044
Hennings, Mark	Reg. No. 48,982	Welter, Paul A.	Reg. No. 20,890
Hertzberg, Brett A.	Reg. No. 42,560	Whitaker, John E.	Reg. No. 42,222
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Hope, Leonard J.	Reg. No. 44,774	Wier, David D.	Reg. No. 48,229
Hornsby, III, Alton	Reg. No. 47,299	Williams, Douglas J.	Reg. No. 27,054
Jacobson, Charles A.	Reg. No. 53,061	Withers, James D.	Reg. No. 40,376
Johns, Nicholas P.	Reg. No. 48,995	Wong, Bryan A.	Reg. No. 50,836
Johnston, Scott W.	Reg. No. 39,721	Wong, Thomas S.	Reg. No. 48,577
Kalinsky, Robert A.	Reg. No. 50,471	Xia, Tim Tingkang	Reg. No. 45,242
Kelly, Zachary J.	Reg. No. 53,108	Zeculi, Anthony R.	Reg. No. 45,255
Kettelberger, Denise	Reg. No. 33,924		
Keys, Jeramie J.	Reg. No. 42,724		
Knearl, Homer L.	Reg. No. 21,197		
Korver, Joshua W.	Reg. No. 51,894		
Kowalchyk, Alan W.	Reg. No. 31,535		
Kowalchyk, Katherine M.	Reg. No. 36,848		
Lamberty, Michael	Reg. No. 50,760		
Larson, James A.	Reg. No. 40,443		

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Merchant & Gould P.C. to the contrary.

I understand that the execution of this document, and the grant of a power of attorney, does not in itself establish an attorney-client relationship between the undersigned and the law firm Merchant & Gould P.C., or any of its attorneys. Please direct all correspondence in this case to Merchant & Gould P.C. at the address indicated below:

Merchant & Gould P.C.  
P.O. Box 2903  
Minneapolis, MN 55402-0903

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	Full Name Of Inventor	Family Name <u>KITAKA</u>	First Given Name <u>Shigeo</u>	Second Given Name
0	Residence & Citizenship	City Osaka-shi	State or Foreign Country Osaka, Japan	Country of Citizenship Japan
1	Mailing Address	Address c/o NIPPON SHEET GLASS COMPANY, LIMITED, 7-28, Kitahama 4-chome, Chuo-ku	City Osaka-shi	State & Zip Code/Country Osaka 541-8559/ JAPAN
Signature of Inventor 201: <u>Shigeo Kitaka</u>			Date: <u>December 16, 2004</u>	
2	Full Name Of Inventor	Family Name <u>OYA</u>	First Given Name <u>Kazushi</u>	Second Given Name
0	Residence & Citizenship	City Osaka-shi	State or Foreign Country Osaka, Japan	Country of Citizenship Japan
2	Mailing Address	Address c/o NIPPON SHEET GLASS COMPANY, LIMITED, 7-28, Kitahama 4-chome, Chuo-ku	City Osaka-shi	State & Zip Code/Country Osaka 541-8559/ JAPAN
Signature of Inventor 202: <u>Kazushi Oya</u>			Date: <u>December 16, 2004</u>	
2	Full Name Of Inventor	Family Name <u>NARA</u>	First Given Name <u>Masatoshi</u>	Second Given Name
0	Residence & Citizenship	City Osaka-shi	State or Foreign Country Osaka, Japan	Country of Citizenship Japan
3	Mailing Address	Address c/o NIPPON SHEET GLASS COMPANY, LIMITED, 7-28, Kitahama 4-chome, Chuo-ku	City Osaka-shi	State & Zip Code/Country Osaka 541-8559/ JAPAN
Signature of Inventor 203: <u>Masatoshi Nara</u>			Date: <u>December 16, 2004</u>	
2	Full Name Of Inventor	Family Name <u>TSUNETOMO</u>	First Given Name <u>Keiji</u>	Second Given Name
0	Residence & Citizenship	City Osaka-shi	State or Foreign Country Osaka, Japan	Country of Citizenship Japan
4	Mailing Address	Address c/o NIPPON SHEET GLASS COMPANY, LIMITED, 7-28, Kitahama 4-chome, Chuo-ku	City Osaka-shi	State & Zip Code/Country Osaka 541-8559/ JAPAN
Signature of Inventor 204: <u>Keiji Tsunetomo</u>			Date: <u>December 16, 2004</u>	

5-6

2	Full Name Of Inventor	Family Name <u>ASAI</u>	First Given Name <u>Takahiro</u>	Second Given Name
6	Residence & Citizenship	City <u>Osaka-shi</u>	State or Foreign Country Osaka, Japan <u>JPX</u>	Country of Citizenship Japan
5	Mailing Address	Address c/o NIPPON SHEET GLASS COMPANY, LIMITED, 7-28, Kitahama 4-chome, Chuo-ku		State & Zip Code/Country Osaka 541-8559/ JAPAN
Signature of Inventor 205: <i>Takahiro Asai</i>			Date: <i>December 16, 2004</i>	

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HSML, P.C.

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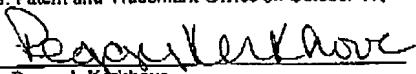
S/N 10/519817

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	KITTAKA, et al.	Examiner:	Unknown
Serial No.:	10/519817	Group Art Unit:	Unknown
Filed:	December 29, 2004	Docket No.:	10873.1603USWO
Title:	PHOTONIC CRYSTAL OPTICAL WAVEGUIDE		

**CERTIFICATE UNDER 37 CFR 1.6(d):**  
I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on October 17, 2005.

By:   
Name: Peggy J. Kerkhove

COMMUNICATION UNDER 37 C.F.R. §1.32(c)(3)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Commissioner:

Pursuant to 37 C.F.R. §1.32 (c)(3) please appoint the following practitioners named in the Power of Attorney to be recognized by the U.S. Patent Office as being of record in the above-identified application:

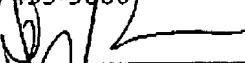
James A. Larson (40,443)  
Curtis B. Hamre (29,165)

Douglas P. Mueller (30,300)  
Michael D. Schumann (30,422)

The undersigned was named on the Power of Attorney.

Respectfully submitted,

HAMRE, SCHUMANN, MUELLER &  
LARSON, P.C.  
P.O. Box 2902-0902  
Minneapolis, MN 55402-0903  
(612) 455-3800

By:   
Douglas P. Mueller  
Reg. No. 30,300

Dated: October 17, 2005

DPM/pjk

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